

Chapter 5.86

SOLICITORS, CANVASSERS, AND PEDDLERS

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5.86.005 Purpose.

It is the purpose of this chapter to regulate peddlers and solicitors in order to protect the personal privacy of citizens of the city, to protect the unique privacy and sanctuary of the home, to reduce the danger of abuse, to promote the health, safety and general welfare of the citizens of the city and to preserve their private property. It is not the purpose of this chapter to impose a limitation or restriction on the content of any communicative material.

5.86.010 Definitions.

The following words shall have the meaning herein ascribed when used in this section:

A. “Bond” means a cash bond or irrevocable letter of credit issued by a financial institution located and authorized to do business in the state of Utah, conditioned that the ap-

plicant, if issued a permit hereunder, will comply fully with all city ordinances and other applicable laws, rules and regulations.

B. “Canvasser” means one who goes from residence to residence for charitable or political reasons and does not sell products or services.

C. “Fixed place of business” means a place of business continuously maintained in the city for at least 90 days. The use of a telephone answering service or address for the primary purpose of receiving mail shall not constitute a place of business for purposes of this section.

D. “License official” means the license official of the city, or a designate thereof.

E. “Peddler” means one who sells food, goods, wares or commodities from place to place, without an appointment, and makes delivery of the product at the time of contact. The time of collection of payment is immaterial. The term “peddler” shall include a person who sells flowers in a commercial zone.

F. “Residence” means every separate living unit occupied for residential purposes by one or more persons, irrespective of the type of building or structure.

G. “Solicitor” means one who takes orders, going from residence to residence without appointment, for future deliveries or for intangible services, or solicits subscriptions from other than an established place of business, or sells products or services.

5.86.020 Permit—Required.

No person shall act as a peddler or solicitor without having first obtained a valid and current permit as provided in this section. Such permit shall be carried on the person while so acting, and shall be displayed to any person upon request.

5.86.030 Exempt activities.

This chapter does not apply to:

A. Persons acting on behalf of organizations recognized under section 501(c)(3) of

the United States Internal Revenue Code or any successor law, rule or regulation, provided such persons act with the knowledge of such organization, and provided that such persons have identification establishing their connection with the organization on their person. Such identification may include, but is not limited to, uniforms and preprinted name tags or promotional material issued by the organization.

B. Persons who represent a fixed place of business who regularly make deliveries, normally not involving personal contact with customers, for the purpose of making sales or obtaining orders over an established route, and who only occasionally make calls on persons residing within the area covered by such route for the purpose of obtaining additional customers for such regular deliveries. The foregoing provision is intended to cover only such persons engaged in substantially similar activities.

C. Persons licensed and regulated under state law governing the insurance business.

D. Persons licensed and regulated under state law governing the real estate business.

E. Persons licensed and regulated under state law governing the securities and investment business.

F. Persons who go from private residence to private residence for political purposes or for the purpose of influencing legislation.

G. Persons who have obtained an "information card" or registered as a "professional fund raiser" with the Utah Department of Commerce, Division of Consumer Protection.

5.86.040 Permit—Application—Required.

Every person desiring a permit to act as a peddler or solicitor shall make application to the license official. The permit issued under this section shall be in addition to any other required business license or permit. Such permit shall be issued by the license official, provided the fee is paid and eligibility is established. A solicitor or peddler shall have ap-

propriate land use approval.

5.86.050 Permit—Application—Contents.

The application shall contain the following:

A. Name and address of permanent residence and any temporary residence during the permit period; name shall be established by appropriate identification;

B. Physical description, including age and date of birth;

C. Name and address of the person, firm or corporation or association by whom the applicant is employed or represents;

D. Description and average price of the product or service to be sold;

E. The approximate date of the latest prior permit, if any, issued under this section;

F. A statement whether the applicant has been convicted of a felony at any time, or a misdemeanor other than traffic offenses in the last three years;

G. Consent to a criminal background check;

H. Names of the two most recent communities where the applicant has solicited from residence to residence;

I. Time period solicitor or peddler intends to conduct the referenced activities within the city;

J. Signature of the applicant, attesting to the truth of such statements under penalty of law; and

K. A recent photograph of the applicant as specified by the city.

5.86.060 Permit—Fee.

The permit fee shall be as specified in the fee schedule adopted pursuant to section 5.06.050.

5.86.070 Permit—Bond requirements.

Each applicant for a permit to act as a peddler or solicitor shall file a bond in the amount specified in the bond schedule set forth in chart 5.86.070. The bond schedule

may be amended from time to time by the city council.

5.86.072 Forfeiture of bond.

The manager or hearing examiner may order the bond forfeited to the city to be held and distributed to a consumer who has been damaged by a solicitor or peddler and has filed a complaint with the city prior to return of the bond as provided in section 5.86.075, upon the following:

- A. The recommendation of the license official;
- B. A hearing pursuant to chapter 5.11;
- C. A determination that the applicant has violated city ordinances or other applicable laws, rules and regulations; and
- D. A determination that the consumer has been damaged and the amount of such damage.

5.86.075 Return of bond.

Unless an action to forfeit a bond as provided in section 5.86.072 is initiated within 20 days after the expiration of the permit for which the bond was given, the bond shall be promptly returned to the applicant.

5.86.080 Permit—Contents.

On the face of each permit, including temporary permits, there shall be placed each of the following:

- A. The permit number;
- B. The permit holder's name and permanent address;
- C. The name and address of the firm or organization which the holder represents;
- D. A description and picture of the holder; and
- E. The expiration date of the permit.

5.86.090 Permit and application a public record.

The application for a permit and the permit shall be a public record, and the license official may disclose the contents of the appli-

cation or the existence of a permit to any person.

5.86.100 Permit—Denial or revocation conditions.

The license official shall deny or revoke a permit issued under this section for the following reasons:

- A. Failure to pay the fee or post the bond as required;
- B. Misrepresentation of any information requested in the application for permit;
- C. Conviction of the applicant of a felony within the preceding five years, or of a misdemeanor within the preceding three years involving a crime of moral turpitude;
- D. Receipt of the license official, in writing, of at least three complaints within the permit period of annoying, abusive, threatening or harassing contacts with consumers; the applicant may, however, review and respond to such complaints prior to revocation of the permit; and
- E. Revocation of a prior permit issued within the preceding two years.
- F. Violation of city ordinances or other applicable laws, rules or regulations.

5.86.110 Street use restrictions.

No peddler shall have any exclusive right to any location on the public streets or roads, nor shall any be permitted in a stationary location, nor shall he be permitted to operate in any congested area where his operations might impede, inconvenience or endanger the public. For the purpose of this section, the judgment of a peace officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded, inconvenienced or endangered.

5.86.120 Noise prohibited.

It is unlawful for any peddler licensed or registered under the provisions of this section to make any loud noise to attract customers, provided that such peddler may ring a small

bell or play soft music provided that such ringing or playing does not emit sound audible to the human ear at a distance greater than one block from its source.

5.86.130 Sales near churches, schools and playgrounds.

It shall be unlawful for any peddler to stand or station himself, or to drive any vehicle for the purpose of selling his wares and merchandise, or to sell or offer to sell any of his wares or merchandise within two blocks of any public school property in the city between the hours of 8:00 a.m. and 4:00 p.m. on all days when school is in session, or within one block of any public park or playground or church.

5.86.140 Appeal procedures.

Any person aggrieved by any decision or action of the license official may file a written notice of appeal within 20 days of such action and a hearing to consider the appeal shall be held as provided in chapter 5.11 hereof. Unless the manager or hearing examiner orders otherwise, it shall be unlawful for the person aggrieved to continue with such activity that is the subject of the appeal.